

BERNARD L. MADOFF INVESTMENT SECURITIES LLC

IN LIQUIDATION

DECEMBER 11, 2008

BANKRUPTCY CASE NO. 08-1789 (BRL)

Claimant: John Cohlan IV

CLAIMANT'S OPPOSITION TO TRUSTEE'S DETERMINATION OF CLAIM

Claimant John Cohlan IV hereby files this written opposition to Irving H. Picard's, Trustee under the Securities Investor Protection Act, determination as set forth in the Notice of Trustee's Determination of Claim dated May 27, 2009 (the "Determination Notice") regarding the Claimant's claim on Bernard L. Madoff Investment Securities LLC ("BLMIS") Account No. 1C1323 designated as Claim Number 001953. A copy of the Determination Notice is attached hereto as Exhibit A.

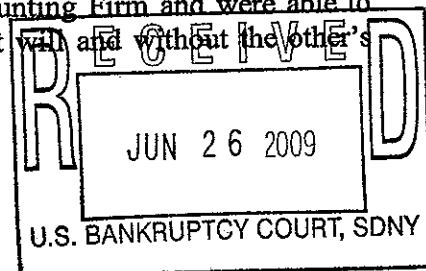
Claimant disagrees with the Trustee's determination that Claimant's claim is allowed for \$6,250,000 (which is the total amount of money Claimant and William Siegel ("Siegel") deposited with BLMIS for the purchase of securities) and requests a hearing before Bankruptcy Judge Burton R. Lifland to reduce the amount of the allowed claim to \$3,500,000. The grounds for Claimant's disagreement are as follows:

1-Claimant and Siegel shared Account No. 1C1323 (the "Account") at the direction of Mr. Stanley Shapiro ("Shapiro"), an employee of BLMIS who provided them with access to investing with BLMIS.

2-Shapiro directed Claimant and Siegel to share such Account and use the accounting firm Konigsberg Wolf and Co., P.C. (the "Accounting Firm") to implement the shared Account as conditions to investing with BLMIS in March 2003. Claimant now believes Shapiro did so in order to minimize BLMIS' number of investors, so BLMIS could avoid the United States Securities and Exchange Commission's registration and reporting requirements for investment advisors and investment companies.

3-Claimant and Siegel each contributed \$500,000 to establish the Account on March 31, 2003. Siegel contributed an additional \$1,500,000 on December 5, 2003 and additional \$750,000 on January 4, 2005 for a total cash investment of \$2,750,000. Claimant through his wholly-owned corporate affiliate (namely, L'Acquisition, Inc.) contributed an additional \$3,000,000 on May 31, 2007 for a total cash investment of \$3,500,000.

4-Claimant and Siegel are and have always been separate and independent investors. They had separate relationships with the Accounting Firm and were able to withdraw and/or add investment dollars to the Account at will and without the other's

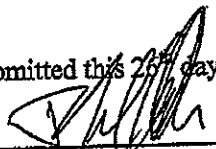


Jun 26 09 10:18a

consent. Their respective investments in the Account were segregated by the Accounting Firm (See the Accounting Firm's Statement for the ten month period ended October 31, 2008 attached hereto as Exhibit B). Furthermore, Claimant and Siegel had no partnership agreement, no "feeder fund" relationship and neither of them paid a promotional fee to the other. Finally, neither of them performed administrative or any other functions on behalf of the other nor derived any benefit from sharing the Account. To the contrary, Siegel has been prejudiced thus far by reason of not being treated as a separate claimant for recovery of his total cash investment of \$2,750,000.

Based on foregoing, Claimant disagrees with the Trustee's determination and requests a hearing before Bankruptcy Judge Burton R. Lifland to reduce the amount of Claimant's allowed claim to \$3,500,000 (his total cash investment as specified in paragraph 3 above).¹

Respectfully submitted this 26th day of June 2009,



John Cohan IV
Margaritaville Holdings
256 Worth Avenue, Suite Q
Palm Beach, Florida 33480

¹ Siegel should be entitled to the remaining allowed claim for \$2,750,000-the amount of his total cash investment as specified in paragraph 3 above. Siegel has filed a separate SIPC Customer Claim for recovery of his investment in the Account.

2127597653 Newscorp
Jun 01 09 11:48a

10:57:14 a.m. 06-25-2009 33/53
p. 2



BERNARD L. MADOFF INVESTMENT SECURITIES LLC

In Liquidation

DECEMBER 11, 2008¹

NOTICE OF TRUSTEE'S DETERMINATION OF CLAIM

May 27, 2009

John Cohan IV
Magaritaville Holdings
256 Worth Avenue, Suite Q
Palm Beach, Florida 33480

Dear Mr. John Cohan:

PLEASE READ THIS NOTICE CAREFULLY.

The liquidation of the business of BERNARD L. MADOFF INVESTMENT SECURITIES LLC ("BLMIS") is being conducted by Irving H. Picard, Trustee under the Securities Investor Protection Act, 15 U.S.C. § 78aaa et seq. ("SIPA"), pursuant to an order entered on December 15, 2008 by the United States District Court for the Southern District of New York.

The Trustee has made the following determination regarding your claim on BLMIS Account No. 1C1323 designated as Claim Number 001953:

Your claim for securities is **DENIED**. No securities were ever purchased for your account.

Your claim is **ALLOWED** for \$6,250,000.00, which is the amount of money you deposited with BLMIS for the purchase of securities, as outlined in Table 1.

¹ Section 7811(7)(B) of SIPA states that the filing date is "the date on which an application for a protective decree is filed under 78ec(a)(3)," except where the debtor is the subject of a proceeding pending before a United States court "in which a receiver, trustee, or liquidator for such debtor has been appointed and such proceeding was commenced before the date on which such application was filed, the term 'filing date' means the date on which such proceeding was commenced." Section 7811(7)(B). Thus, even though the Application for a protective decree was filed on December 15, 2008, the Filing Date in this action is on December 11, 2008.

2127597653 Newscorp
Jun 01 09 11:48a

10:57:34 a.m. 06-25-2009

34 / 53

TABLE 1	
DEPOSITS	
DATE	AMOUNT
3/31/2003	\$1,000,000.00
12/08/2003	\$1,500,000.00
1/5/2005	\$750,000.00
5/31/2007	\$3,000,000.00
Total deposits:	\$6,250,000.00

Your **ALLOWED CLAIM** of \$6,250,000.00 will be satisfied in the following manner:

The enclosed **PARTIAL ASSIGNMENT AND RELEASE** must be executed, notarized and returned in the envelope provided herewith. Upon receipt of the executed and notarized **PARTIAL ASSIGNMENT AND RELEASE**, the Trustee will make a partial satisfaction of your **ALLOWED CLAIM** by sending you a check in the amount of \$500,000.00, with the funds being advanced by Securities Investor Protection Corporation pursuant to section 78fff-3(a)(1) of SIPA. The remainder of your claim - \$5,750,000.00 - will remain as a claim against the fund of customer property.

It is the Trustee's intent, pursuant to SIPA, to submit a Motion for an order of the Bankruptcy Court to allocate assets he has collected and will collect between the fund of customer property and the general estate and to distribute customer property *pro rata* among allowed claimants, such as you. In a decision in this case, Rosenman Family, LLC v. Picard, 401 B.R. 629, 634 (Bankr. S.D.N.Y. 2009), the Bankruptcy Court stated:

The customer estate is a fund consisting of customer property and is limited exclusively to satisfying customer claims. In re Adler Coleman Clearing Corp. (Adler Coleman II), 216 B.R. 719, 722 (Bankr. S.D.N.Y. 1998) ("A SIPA trustee, distributes 'customer property' exclusively among the debtor's customers...."); see also 15 U.S.C. § 78111(4). Accordingly, Customers, as defined by SIPA § 78111(2), enjoy a preferred status and are afforded special protections under SIPA. See New Times Securities, 463 F.3d at 127; Adler Coleman, 195 B.R. at 269."

Id. at 634.

It is not known at this time when the Trustee will be filing such allocation and distribution motion.

PLEASE TAKE NOTICE: If you disagree with this determination and desire a hearing before Bankruptcy Judge Burton R. Lifland, you **MUST** file your written opposition, setting forth the grounds for your disagreement, referencing Bankruptcy Case No. 08-1789 (BRL) and attaching copies of any documents in support of your position, with the United States Bankruptcy Court and the Trustee within **THIRTY DAYS** after May 27, 2009, the date on which the Trustee mailed this notice.

2127597653

Newscorp

Jun 01 09 11:49a

p. 4

PLEASE TAKE FURTHER NOTICE: If you do not properly and timely file a written opposition, the Trustee's determination with respect to your claim will be deemed confirmed by the Court and binding on you.

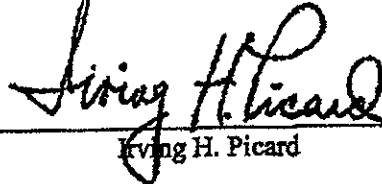
PLEASE TAKE FURTHER NOTICE: If you properly and timely file a written opposition, a hearing date for this controversy will be obtained by the Trustee and you will be notified of that hearing date. Your failure to appear personally or through counsel at such hearing will result in the Trustee's determination with respect to your claim being confirmed by the Court and binding on you.

PLEASE TAKE FURTHER NOTICE: You must mail your opposition, if any, in accordance with the above procedure, to each of the following addresses:

Clerk of the United States Bankruptcy Court for
the Southern District of New York
One Bowling Green
New York, New York 10004

and

Irving H. Picard, Trustee
c/o Baker & Hostetter LLP
45 Rockefeller Plaza
New York, New York 10011


Irving H. Picard

Trustee for the Liquidation of the Business of
Bernard L. Madoff Investment Securities LLC

cc: William Siegel
55 East 59th Street
Suite 22B
New York, New York 10022

300013095.1
5/26/09

2127597653

Newscorp

11/21/2008 10:34

2036374326

MARSHALL ZIESES

PAGE 01

KONIGSBERG WOLF & CO., P.C.440 PARK AVENUE SOUTH
NEW YORK, N.Y. 10016

TEL: (212) 685-7215 FAX: (212) 685-7277

EXHIBIT

B

To:

BILL
SIEGEL

Fax #:

1-212-759-7653

From:

MARSHALL
ZIESES

Re:

JOHN
COHLAN IV

Date:

11/21/08

of Pages:

4

(INCLUDING COVER)

Remarks:

The information contained in this facsimile message is attorney privileged and confidential information intended only for use of the individual or entity named below. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify me by telephone and return the original message to me at the above address via the U.S. Postal Service. Thank you.

MADOFF - OCTOBER 2008

If you did not receive all the pages indicated, please call us as soon as possible at (212) 685-7215

2127597653

Newscorp

10:55:52 a.m. 06-25-2009

27/53

11/21/2008 10:34 2036374326

MARSHALL ZIESES

PAGE 02

**JOHN COHLAN IV
BERNARD MADOFF ANALYSIS
2008**

	JOHN COHLAN	L'ACQUISITION, INC.	BILL SIEGEL	TOTAL
BALANCE - 1/1/08	<u>829,617.07</u>	<u>3,200,727.07</u>	<u>4,181,732.27</u>	<u>8,212,076.41</u>
OWNERSHIP % AGE - 1/1/08	<u>10.10%</u>	<u>38.98%</u>	<u>50.92%</u>	<u>100.00%</u>
INCOME - 1/1/08 - 10/31/08	<u>70,475.25</u>	<u>271,898.98</u>	<u>355,234.51</u>	<u>697,608.74</u>
BALANCE - 10/31/08	<u>900,092.32</u>	<u>3,472,626.05</u>	<u>4,536,966.78</u>	<u>8,909,685.15</u>
TOTAL INCOME - 1/1/08 - 10/31/08	<u>70,475.25</u>	<u>271,898.98</u>	<u>355,234.51</u>	<u>697,608.74</u>
COMPONENTS OF INCOME				
REGULAR DIVIDENDS	6,128.43	23,643.96	30,880.71	60,653.10
U.S. GOVT DIVIDENDS	20.12	77.64	101.44	199.20
U.S. GOVT INTEREST	10,241.54	39,512.85	51,823.05	101,377.25
SHORT-TERM CAPITAL GAIN	(1,030.83)	(3,976.24)	(5,184.84)	(10,201.81)
OPTION INCOME (LOSS)	<u>55,115.78</u>	<u>212,840.97</u>	<u>277,814.25</u>	<u>545,571.00</u>
	<u>70,475.25</u>	<u>271,898.98</u>	<u>355,234.51</u>	<u>697,608.74</u>
SHORT-TERM CAPITAL GAIN (LOSS)				
SALES PROCEEDS	4,285,983.87	16,535,858.55	21,603,748.72	42,425,389.14
COST	<u>4,287,014.50</u>	<u>16,539,834.79</u>	<u>21,808,941.88</u>	<u>42,435,590.95</u>
SHORT-TERM CAPITAL GAIN	<u>(1,030.63)</u>	<u>(3,976.24)</u>	<u>(5,184.84)</u>	<u>(10,201.81)</u>

NOTE - OPTION INCOME (LOSS) IS 60% LONG-TERM AND 40% SHORT-TERM

NOTE - ALL DIVIDENDS ARE NON-QUALIFYING

2127597653

Newscorp

10:56:09 a.m. 06-25-2009

28/53

11/21/2008 10:34 2036374326

MARSHALL ZIESES

PAGE 03

**JOHN COHLAN IV
BERNARD MADOFF ANALYSIS
2008**

Reconciliation of account

Jan 1 balance - stock a/c - cash	0.66	
- stock a/c - securities - long	8,212,075.75	
- option a/c - cash	0.00	
- option a/c - securities - long	0.00	
- option a/c - securities - short	0.00	8,212,076.41
E. O. M. bal. - stock a/c - cash	(645,570.35)	
- stock a/c - securities - long	8,909,884.50	
- option a/c - cash	545,571.00	
- option a/c - securities - long	0.00	
- option a/c - securities - short	0.00	8,909,685.15
Increase (decrease) in account		697,608.74
Net (deposits) withdrawals		0.00

Year-to-date income 697,608.74

Approximate annualized simple rate of return 9.77%

		INCOME RECONCILIATION	
		DIVIDENDS:	
	END OF MONTH BAL	REGULAR	60,663.10
JAN 1	8,212,076.41	U. S. GOVT	199.20
JAN 31	8,261,285.39		80,862.30
FEB 28	8,271,298.14	U. S. GOVT INTEREST INCOME	101,377.25
MAR 31	8,280,535.49		
APR 30	8,542,502.28	CAPITAL GAINS:	
MAY 31	8,713,625.17	STOCKS:	
JUN 30	8,748,264.51	T-BILL - BEG	(8,204,579.75)
JUL 31	8,752,877.01	SALES	42,425,389.14
AUG 31	8,753,355.51	PURCH	(43,070,324.70)
SEP 30	8,880,147.08	INV @ MKT	8,909,684.50
OCT 31	8,909,685.15	FIDELITY INV	(70,371.00)
NOV 30			(10,201.81)
DEC 31			
	94,335,652.14	OPTIONS:	
		SALES	1,731,831.00
		PURCH	(1,185,060.00)
		INV @ MKT	0.00
			545,571.00
AVG BALANCE	8,575,968.38	TOTAL INCOME	697,608.74

29 / 53

NewsCorp

[illegible]

2003

11/21/2008 10:34

PAGE 04